

Message Text

CONFIDENTIAL

PAGE 01 STATE 196179

14

ORIGIN L-03

INFO OCT-01 NEA-10 ISO-00 SCA-01 SCS-03 CPR-02 INR-10

RSC-01 /031 R

DRAFTED BY L/M/SCA:HFSHAMWELL, JR.:MA

APPROVED BY L/M/SCA:KEMALMBORG

SCA - MR. FREDERICK SMITH, JR.

NEA/INS - MR. HAWES

NEA/INS - MR. KUX

----- 128963

R 022336Z OCT 73

FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI

INFO AMCONSUL BOMBAY

AMCONSUL CALCUTTA

AMCONSUL MADRAS

C O N F I D E N T I A L STATE 196179

E.O. 11652: GDS

TAGS: CGEN, IN

SUBJECT: CALCUTTA CONSULAR DISTRICT

REF: NEW DELHI 10423

1. REFTTEL REQUESTED DEPT'S CONCURRENCE IN TRANSMISSION OF NOTE TO GOI STATING EMBASSY'S UNDERSTANDING OF JURISDICTION TO BE EXERCISED BY CONSULATE GENERAL CALCUTTA IN CERTAIN CONSULAR MATTERS. SPECIFICALLY, EMBASSY'S NOTE WOULD HAVE EFFECT OF COUNTERMANDING GOI NOTIFICATION THAT NEW CONSUL-GENERAL'S DISTRICT WOULD NOT INCLUDE NORTHEAST INDIA.

2. DEPT CONCURS IN EMBASSY'S PROPOSED COURSE OF ACTION AND SEES AMPLE LEGAL JUSTIFICATION THEREFOR. EMBASSY THUS AUTHORIZED TRANSMIT PROPOSED NOTE. DISCUSSION FOLLOWS.

3. WHILE INDIA IS NOT A PARTY TO THE VIENNA CONVENTION ON
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 196179

CONSULAR RELATIONS OF 1963 (US HAS BEEN PARTY SINCE 1969),

IN DEPARTMENT'S VIEW RULES CONTAINED THAT CONVENTION WHICH ARE PERTINENT TO QUESTION AT ISSUE ARE DECLARATORY OF CUSTOMARY INTERNATIONAL LAW AND THUS SHOULD BE REGARDED AS BINDING EVEN IN ABSENCE FORMAL TREATY RELATIONSHIP. UNDER ARTICLE 4, PARAGRAPH 2, OF THE TREATY, QTE THE SEAT OF THE CONSULAR POST, ITS CLASSIFICATION AND THE CONSULAR DISTRICT SHALL BE ESTABLISHED BY THE SENDING

STATE AND SHALL BE SUBJECT TO THE APPROVAL OF THE RECEIVING STATE. UNQTE THUS, WHILE THE RECEIVING STATE'S CONCURRENCE IS REQUIRED THERE IS NOTHING IMPROPER IN A NOTIFICATION BY THE SENDING STATE CONCERNING ITS UNDERSTANDING OF THE LIMITS OF THE CONSULAR DISTRICT. THIS CONCLUSION APPLIES EVEN IN THE CASE OF A CHANGE IN THE CONSULAR DISTRICT PROPOSED BY THE SENDING STATE. (SEE ART. 4, PARA 3.)

4. EMBASSY'S ATTENTION ALSO DIRECTED TO ART. 72(1) OF VIENNA CONVENTION WHICH PROVIDES THAT QTE IN THE APPLICATION OF THE PRESENT CONVENTION THE RECEIVING STATE SHALL NOT DISCRIMINATE AS BETWEEN STATES. UNQTE WHILE THIS PROVISION DOES NOT REQUIRE ABSOLUTE EQUALITY AS AMONG STATES REGARDING SUCH MATTERS AS THE SIZE OF CONSULAR DISTRICTS, IT DOES IMPOSE UPON THE RECEIVING STATE THE OBLIGATION TO REFRAIN FROM ARBITRARY ACTION IN THIS REGARD.

5. BELIEVE TACTICALLY EMBASSY MAY WISH TO DROP FROM ITS PROPOSED NOTE SPECIFIC REQUEST FOR GOI CONFIRMATION OF OUR UNDERSTANDINGS (PARA 6 - C, REFTTEL) MAKING EMBASSY NOTE A SIMPLE STATEMENT OF OUR POSITION. KISSINGER

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 02 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: elyme
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE196179
Document Source: CORE
Document Unique ID: 00
Drafter: HFSHAMWELL, JR.:MA
Enclosure: n/a
Executive Order: GS MALMBORG
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731055/aaaabopk.tel
Line Count: 93
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: NEW DELHI 10423
Review Action: RELEASED, APPROVED
Review Authority: elyme
Review Comment: n/a
Review Content Flags:
Review Date: 19 DEC 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19-Dec-2001 by martinml>; APPROVED <10-Jan-2002 by elyme>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CALCUTTA CONSULAR DISTRICT
TAGS: CGEN, IN
To: NEW DELHI
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005